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09/025,395 02/18/98 RYDBECK

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EXAMINER

BANKS HAROLD, M

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 22

Application Number: 09/025,395

Filing Date: 02/18/98

Appellant(s): RYDNECK ET AL.

David E. Bennett
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 8/10/01.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 11-19 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

2308775A	FUTAMI	02-1997
4,591,661	BENEDETTO ET AL.	05-1986
5,661,788	CHIN	08-1997
5,987,106	KITAMURA	11-1999

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 11-12 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Futami (GB 2308775A).

Regarding **claim 11**, Futami discloses a portable telephone set and entertainment unit with a wireless headset, where the entertainment unit is constituted by a CD, as disclosed on page 14, lines 6-11, which inherently provides support for the audio and video signals, since it is well known in the art that CDS are used for both audio and video signals, which reads on the claimed “cellular telephone having an entertainment module for playing pre-recorded audio and video signals”. In addition, Futami discloses a radio telephone unit (12) used for the transmission and reception of communication information, as exhibited in FIG. 2, which reads on the claimed “transceiver”; a control unit (17) for controlling the operation of the radio telephone unit (12), as exhibited in FIG. 2, which reads on the claimed “microprocessor”; a transmission/reception unit (15) operatively connected to the radio telephone unit (12) and to the control unit (17) used for

processing the signals transmitted and received by the radio telephone unit (12), as exhibited in FIG.2, which reads on the claimed “signal processing unit”; and an audio reproduction unit (16) with a computer memory (e.g., cassette player, CD, etc.) operatively connected to the control unit (17) and the transmission/reception unit (15) used for storing the audio and the video signals for future playback, as exhibited in FIG. 2, which reads on the claimed “entertainment module”.

Regarding **claim 12**, Futami discloses everything claimed, as applied above (see **claim 11**), in addition, Futami inherently provides support for the memory being erasable and programmable, as evidenced by the fact that it is well known in the art for the memory of CDS to be erasable and programmable, as exhibited in FIG. 2 and disclosed on page 14, lines 6-11.

Regarding **claim 14**, Futami discloses everything claimed, as applied above (see **claim 11**), in addition, Futami inherently provides support for the memory being permanent and removable, as evidenced by the fact that it is well known in the art for the memory of CDS to be permanent and for the CDS to be removable, as exhibited in FIG. 2 and disclosed on page 14, lines 6-11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Futami in view of well known prior art (MPEP 2144.03).

Regarding **claim 13**, Futami discloses everything claimed, as applied above (see **claim 12**), however, Futami fails to specifically disclose an input used for downloading information. However, the examiner takes official notice of the fact that it is well known in the art to use inputs for downloading information.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Futami by providing for the input for downloading information, for the purpose of providing a specific means used for obtaining information from various sources.

Regarding **claim 15**, Futami discloses everything claimed, as applied above (see **claim 11**), in addition, Futami inherently discloses support for a memory that is programmable and erasable and where the memory is permanent, as evidenced by the fact that it is well known in the art for the memory of CDS to be erasable, programmable and permanent, as exhibited in FIG. 2 and disclosed on page 14, lines 6-11. However, Futami fails to specifically disclose where

the memories are two separate memories. However, the examiner takes official notice of the fact that the use of RAM and ROM memories is well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Futami by providing for the two separate well known RAM and ROM memories, for the purpose of providing means necessary to provide the user of a communication device with the ability to separate stored information based on the need to change or not to change the stored information.

Regarding **claim 16**, Futami and well known prior art disclose everything claimed, as applied above (see **claim 15**), in addition, Futami inherently provides support for the memory being removable and interchangeable, as evidenced by the fact that it is well known in the art for CDS to be removable and thus interchangeable, as exhibited in FIG. 2 and disclosed on page 14, lines 6-11.

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Futami in view of well known prior art (MPEP 2144.03) further in view of Benedetto et al. (U.S. Patent Number 4,591,661).

Regarding **claim 17**, Futami and well known prior art disclose everything claimed, as applied above (see **claim 12**), in addition, Futami discloses where the audio signals from the inherent memory (see **claim 12**) are directed to the earphone/microphone unit (2), as exhibited in FIG. 2, however the Futami combination fails to specifically disclose where the headset is

connected to a headset port in the telephone, however, the examiner contends that this connection is well known in the art, as taught by Benedetto et al..

In a similar field of endeavor, Benedetto et al. discloses a portable cordless telephone transceiver-radio receiver. In addition, Benedetto et al. discloses where a headset (60) is connected to a jack receptacles 42-45, as disclosed at column 3, lines 8-10.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Futami combination by providing for the connection of the headset to the telephone, as taught by Benedetto et al. for the purpose of providing a means of electrically connecting the headset to the telephone.

Regarding **claim 18**, the Futami combination discloses everything claimed, as applied above (see **claim 12**), in addition Futami discloses where the control unit (17) shuts off the audio reproduction unit (16) based on a call being received, as disclosed on page 7, line 26- page 8, line 4.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Futami in view of well known prior art (MPEP 2144.03) further in view of Chin (U.S. Patent Number 5,661,788) further in view of Kitamura (U.S. Patent Number 5,987,106).

Regarding **claim 19**, the Futami combination discloses everything claimed, as applied above (see **claim 15**), in addition Futami discloses where the audio output was stopped based on an incoming call, as disclosed on page 7, line 26 through page 8, line 4, however, Futami fails to specifically disclose where a list of preferred callers was used to determine who to actually accept

a call from and where the audio was impacted based on a preferred caller. However, the examiner contends that the acceptance of calls based on a preferred list in addition to the stopping of audio output in response to a preferred caller is well known in the art, as taught by Chin and Kitamura.

Regarding the "preferred list of callers", in a similar field of endeavor, Chin discloses a method and system used for selectively altering user and answering preferred telephone calls. In addition, Chin discloses where a list of preferred callers are stored in selection memory (112) and where the list is used only to accept calls from those callers stored on the list, as disclosed at column 4, lines 43-51.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Futami combination by providing for the preferred list of callers, as taught by Chin, for the purpose of avoiding undesired incoming telephone calls, as taught by Chin at column 1, lines 45-47.

Regarding the "stopping of audio output in response to a preferred caller", in a similar field of endeavor, Kitamura discloses an automatic volume control system and method for use in a multi-media computer system. In addition, Kitamura discloses where the audio for audio generating components is muted based on the detection of a call from a priority caller, as disclosed at column 6, lines 37- column 7, line 7.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Futami combination by providing for the muting of audio generated by audio generating components based on the detection of a call from a priority caller,

as taught by Kitamura, for the purpose of being able to provide different volume control strategies based on the priority level of a received call, as taught by Kitamura at column 1, lines 65-68.

(11) Response to Argument

Regarding applicant's arguments concerning the interpretation of the term "memory" in view of the specification, the examiner maintains that the maintained rejection was made in view of the specification, since according to MPEP 2173.05(a), it is appropriate to compare the meanings of terms given in technical dictionaries in order to ascertain the accepted meaning of a term in the art. Thus, since the examiner's maintained rejection was based on the use of "Newton's Telecommunications Dictionary", where according to Newton, CD or CD ROM means "memory used for computers", and since Futami provides support for the use of CDS, one of ordinary skill in the art would conclude that in view of Newton, based on the claim

language as currently presented, that the maintained rejection meets the claimed limitations.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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PRIMARY EXAMINER

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October 22, 2001

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09/025, 395

Appeal Conference

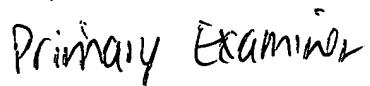
Conducted 10/16/01


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